

Serial No. 10/627,093
Docket No. AO694

Examiner: J. Alexander
Art Unit: 3762

REMARKS

This Amendment is being filed in response to the outstanding Office Action dated December 19, 2005. A request for continued prosecution along with a two-month extension of time is being filed concurrently herewith. Reconsideration and allowance of this application in view of the amendments above and remarks to follow is respectfully requested.

Turning to the formal rejections, claims 8 and 14 stand rejected under Section 112 as being indefinite. Applicant has reviewed this rejection in view of the claim language and takes this opportunity to thank the Examiner for his time in suggesting language to overcome the rejections. In view thereof, Applicant has amended claims 8 and 14 consistent with the proposed language and therefore respectfully submits that the Section 112 rejections have been overcome. Notice to this effect is respectfully requested.

Turning now to the substantive rejections, claims 1-3 and claims 5-14 stand rejected as being anticipated by Birnbaum et al (U.S. Patent No. 6,405,077). Applicant respectfully traverses these rejections.

Applicant has amended claims 1-3 and 5-14 to more particularly recite that the condition, range or "zone" to which Applicant is consistently referring to is that condition, range or "zone" in which the user is seeking to be currently within. By way of this amendment, Applicant recognizes that Birnbaum describes the ability to set more than one upper and lower heartrate limit pair, but that the "pair" to which Applicant is consistently referring to is the "current" one. Applicant respectfully submits that recitation of the term "effective" into the claims does not in any way introduce new subject matter therein, but rather merely helps clarify the disclosed invention and to further distinguish the invention from that described in the Birnbaum patent, as will now be discussed.

For example, the passage noted by the Examiner at col. 10, lines 11-20 and col. 8, lines 30-46 of Birnbaum describes (and claims) a method of heartrate monitoring by supplying information to form several heart rate limit alarm pairs and, as to each heartrate limit pair, supplying time information indicating a time period during which a heart rate

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limit alarm pair (or at least the upper or lower limit of the pair) is *effective*. As understood by Applicant, Birnbaum describes the ability to set various upper and lower limits (i.e. limit pairs) and have an exercise program progress so that different limit pairs become *effective* at different times. However, and again as best understood, only one limit pair is "effective" at a time.

As noted in the Office Action, Birnbaum describes that limit pairs become "effective" upon the supplying of time information. For example, as noted in Birnbaum at col. 8, lines 30-46, time information TIME1 to TIME7 is presented such that each time period TIME1 to TIME7 also comprises the initial time needed to reach the first heartrate limit of the heart rate limit pair. "In other words, the time information TIME1 to TIME7 in FIGS. 5 to 7 is presented in principle such that each time period TIME1 to TIME7 contains not only the time the heart rate is within the heart rate limit pair but also the time preceding the time concerned, i.e. the time needed by the heart rate to reach the range concerned, i.e. to rise or fall" (col. 8, lines 35-41). Thus, it can be seen that Birnbaum merely recognizes that the user can set a duration for a range (e.g. 5 minutes) and that this time period may actually comprise a period of time within which it takes the user to actually get his/her heartrate into the desired range.

In claim 4 (col. 10, lines 45-51), Birnbaum claims the step of "activating both heart rate limits of a heart rate alarm pair during a time period ... when the heart rate measured by the heart rate measuring arrangement has changed such that it is within the range defined by the heart rate limits of a heart rate limit alarm pair." However, Applicant respectfully disagrees with the interpretation that this claim language (and its associated description in the specification (e.g. col. 8, lines 46-56)) stands for the proposition that Birnbaum describes enabling the target zones "only beginning once the heart rate initially enters the target zone." That is, it is respectfully submitted that the time periods t1 to t7 in Figs. 5 to 7 (i.e. in the fourth, fifth and sixth embodiments) are merely another criterion that Birnbaum uses to change the "effective" heartrate limit. Specifically, Birnbaum describes at col. 8, lines 47-56 that these alternate embodiments describe "a time period during which the heart rate must be within the range of said heart rate limit alarm pair during the exercise" (emphasis added). In the fourth, fifth and sixth

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embodiments the time information supplied is thus the time that the heart rate must be within the range. That is, as opposed to the earlier Birnbaum embodiments whereby the heartrate limit pair may change to its next effective pair after a set time (e.g. 5 minutes), in the latter fourth to sixth embodiments Birnbaum describes that it is the heartrate itself that must be within the effective range for a period of time before the "effective" heartrate limit pair changes.

Thus, it is respectfully submitted that Birnbaum merely describes (i) embodiments whereby the effective limit pair will change after a period of time (e.g. regardless of whether the user's heartrate ever got into the "zone") and (ii) embodiments whereby the effective limit pair will change only after the heartrate itself was in the zone for a set period of time.

Accordingly, it is respectfully submitted that Birnbaum does not describe or suggest the step of not generating the out of zone alert when the sampled biomedical value (e.g. heartrate) fails to satisfy the *effective* condition until it first satisfies the effective condition. In other words, the claimed invention advantageously does not generate the alert until the user gets into the effective (i.e. "current") zone. Birnbaum, it is respectfully submitted, does not describe or suggest this feature. In fact, it is submitted that Birnbaum is no different than any of the other known prior art in that it does not recognize the ability to remain silent until the heartrate first gets into the zone.

As such, it is respectfully submitted that the subject matter of claims 1-3 and 5-14 (as each of the independent claims recite the feature of not generating the out of zone alert until the biomedical value is first determined to be within the effective limit(s)) is not anticipated by Birnbaum and notice to this effect is earnestly solicited.

Turning to the remaining claims 15 and 18-21 which stand rejected as being obvious in view of Oglesby (U.S. Patent No. 6,783,482), Applicant respectfully disagrees. The Examiner acknowledges that Oglesby does not describe or suggest all of the features of the claimed invention.

As claimed in claim 15, the invention recites, among other things, determining whether the sampled heartrate fails to satisfy the condition for more than a predetermined continuous period of time, and if so:

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- suppressing further generation of the out of zone alert even if a next successive sampled heartrate value fails to satisfy the condition, and
- continually suppressing further generation of the out of zone alert for successive sampled heartrate values that fail to satisfy the condition until a sampled heartrate value satisfies the condition.

It is respectfully submitted that there is no teaching or suggestion in Oglesby of suppressing further generation of the out of zone alert after a predetermined time that the heartrate has continuously failed the condition. Specifically, Applicant respectfully disagrees that Oglesby describes that it would be advantageous to discontinue the out of zone alert after a period of time due to lack of screen space or to prevent annoyance to the user. Although Applicant concedes that Oglesby describes that "it is desirable to provide only that information to the user that is most useful for the particular workout" there is no description or suggestion of discontinuing the "LEAVING TARGET HEART RATE ZONE." In fact, Fig. 13 specifically illustrates the preferred flowchart which shows that there is no description or suggestion of removing the "LEAVING TARGET HEART RATE ZONE" message in the manner claimed by Applicant. While such removal is advantageous and so claimed by Applicant, it is respectfully submitted that such removal is not described or suggested in the cited art. It is respectfully submitted to be hindsight to consider that discontinuing of the "LEAVING TARGET HEART RATE ZONE" message would be obvious from Oglesby. In fact, Ogleby's description ensures that the message is not suppressed in a manner claimed by Applicant.

In view thereof, Applicant respectfully submits that claims 15 and 18-21 are allowable over the cited Ogleby patent and notice to this effect is earnestly solicited.

CONCLUSION

Applicant respectfully submits that the foregoing is a full and complete response to the Office Action of record and believe and that claims 1-3, 5-15 and 18-21 are now in condition for allowance and an indication of allowability and an early Notice of Allowance of all of the claims is respectfully requested.

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However, if any issues still exist that would prevent the issuance of a Notice of Allowance, the Examiner is requested to telephone the undersigned at (203) 575-2629 prior to the issuance of the next office action.

Respectfully submitted,



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